

ITEL

RECORDED

JUN 30 9 03 AM '80

I.C.C.

0-182AC20

FEE OPERATION BR.

No.

Date JUN 30 1980

Fee \$ 10.00

ICC Washington, D. C.

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: Itel Corporation
Equipment Trust 1978 Series 3
Equipment Trust Agreement dated as of November 1, 1978
10% Equipment Trust Certificates due December 1, 1994

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith, on behalf of Itel Corporation, for filing and recordation, as an additional filing under Recordation No. 9932, three (3) executed counterparts of the following document:

Amendment No. 1 to Equipment Trust Agreement Dated as of November 1, 1978, dated as of June 16, 1980, between Itel Corporation and Citibank, N.A., as Trustee.

The names and addresses of the parties to the aforementioned document are:

- (1) Itel Corporation, Rail Division
Two Embarcadero Center, 24th Floor
San Francisco, California 94111
- (2) Citibank, N.A., as Trustee
Corporate Trust Department
Hanover Square, 14th floor
New York, New York 10064

The equipment covered by the enclosed Amendment No. 1 is all the railcars covered by that certain Equipment Trust Agreement Dated as of November 1, 1978, between Itel Corporation and Citibank, N.A., as Trustee.

Enclosed also is a check for \$10.00 for the required recordation fee.

Rail Division

Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

RECORDATION NO. 9932-14
Filed 1425
JUN 30 1980-9 10 AM

INTERSTATE COMMERCE COMMISSION

June 17, 1980


*Mr. Lee -
this one is
9932-6*

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Ms. Agatha Mergenovich
June 17, 1980
Page 2

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining two (2) counterparts be delivered to the bearer of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "David V. Biesemeyer", with a long horizontal flourish extending to the right.

David V. Biesemeyer
Senior Counsel

jmg

cc: Jenik Radon, Esq.
Edward Wes, Esq.
Michael Walsh, Esq.
Steven C. Wight

enclosures

Interstate Commerce Commission
Washington, D.C. 20423

6/30/80

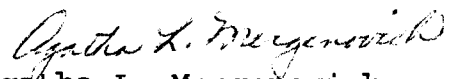
OFFICE OF THE SECRETARY

David V. Biesemeyer
Senior Counsel
Itel Rail Division
Two Embarcadero Center
San Francisco, Calif. 94111

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **6/30/80** at **9:10am**, and assigned re-recording number(s). **9932-G**

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

NOTES

RECORDATION NO. *9933* Filed *1425*
Y

Amendment No. 1 to Equipment Trust Agreement
Dated as of November 1, 1978

JUN 30 1980 - 9 10 AM

INTERSTATE COMMERCE COMMISSION

Amendment No. 1, dated as of June 16, 1980, to that certain Equipment Trust Agreement (hereinafter the "Equipment Trust Agreement"), dated as of November 1, 1978, between Citibank, N.A., as Trustee (hereinafter "Trustee") and Itel Corporation (hereinafter "Itel").

WHEREAS, the Trustee and Itel are parties to the Equipment Trust Agreement, which was filed and recorded with the Interstate Commerce Commission, pursuant to 49 U.S.C. Section 11303, on December 22, 1978, under recordation number 9932;

WHEREAS, the Trustee has received consent and direction, pursuant to Sections 5.08 and 10.03 of the Equipment Trust Agreement, from certain of the holders of Trust Certificates with respect to the amendment of the Equipment Trust Agreement as follows; and

WHEREAS, the Trustee and Itel desire to amend the Equipment Trust Agreement as follows;

NOW THEREFORE, in consideration of the covenants and promises contained herein and in the Equipment Trust Agreement and pursuant to the consent and direction of certain of the holders of Trust Certificates, the Trustee and Itel hereby amend the Equipment Trust Agreement by the addition of a third paragraph to Section 4.09 thereof as follows:

"Notwithstanding that Itel is in default under this Agreement, Itel need not obtain the prior written consent of the Trustee in order for it to be entitled to possession of the Trust Equipment or to maintain, modify, alter, amend, terminate, or enter into leases of the Trust Equipment and permit the use of the Trust Equipment by any lessee or user so long as Itel complies with the following terms and conditions:

- (1) No termination of an existing lease as to a particular group of units of Trust Equipment may be effected unless (i) substantially contemporaneously therewith a new lease for those same units of Trust Equipment is entered into or (ii) the lessee has interfered with Itel's performance of the car hire accounting for the units of Trust Equipment subject to such lease;
- (2) Itel must supply copies of each new lease or modification, alteration, or amendment of an existing lease to each holder of Trust Certificates within twenty (20) days after such new lease or such modification, alteration, or amendment of an existing lease has been executed by both parties thereto;
- (3) During any thirty (30) day period, Itel may terminate, modify, alter, or amend (i) leases governing not more than one hundred (100) units of Trust Equipment and (ii) all leases of Trust Equipment to the Providence and Worcester Company;

- (4) Quarter-annually, Itel shall furnish each holder of Trust Certificates with information, in such detail and form as any such holder may reasonably request, concerning the revenue from and utilization rates under all leases of the Trust Equipment and how many, if any, of the units of Trust Equipment are not subject to any of such leases;
- (5) Every new lease and every modified, altered, or amended lease shall contain substantially the following clause:

Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Itel in connection with the acquisition of the railcars which are the subject of this Lease. Accordingly, following notice to Lessee from any such secured party or owner that an event of default has occurred at any time (including at a time prior to the effective date of this Lease) and is continuing under such financing agreement, such secured party may require either or both that all rent shall be made directly to such secured party and that the railcars immediately be returned to such party.

- (6) The Trustee shall receive an executed duplicate original of every new lease and every modification, alteration, or amendment to an existing lease promptly after it is duly filed as provided in Section 6.03, which filing shall occur contemporaneously with its execution and delivery by Itel;
- (7) Each new lease and, where necessary to preserve the security interest of the Trustee, each existing lease modified, altered, or amended, as authorized by this paragraph shall be assigned to the Trustee pursuant to an assignment substantially in the form of a Lease Assignment and shall be duly filed as provided in Section 6.03, which assignment and filing shall occur contemporaneously with the execution of each new lease or each modification, alteration, or amendment of an existing lease, and the Trustee shall receive an executed duplicate original of each such Lease Assignment promptly after such filing;
- (8) The Trustee shall receive the opinion of counsel referred to in Section 6.03 of this Agreement, in form and substance satisfactory to the Trustee;
- (9) Concurrently with the delivery to the Trustee of the documents referred to in subparagraphs 6 & 7 of this paragraph, Itel shall represent in writing to the Trustee that it has not made any representation to the lessee inconsistent with the subordination provisions referred to in subparagraph 5 of this paragraph;
- (10) Itel shall not without the prior written consent of holders of at least a majority in aggregate unpaid principal amount of the Trust Certificates enter into any lease or car contract relating to the use of Trust Equipment with any lessee or user which is not a company duly incorporated under the laws of the United States or any State thereof;

- (11) Not more than ten percent (10%) of the units of Trust Equipment shall be used or located at any one time in the Dominion of Canada or any Province or Territory thereof and/or in the Republic of Mexico;

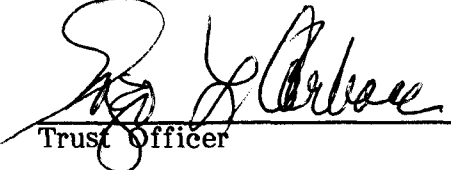
provided, however, that this paragraph shall cease to have any effect upon notification to Itel by the Trustee that the holders of greater than thirty-three and one-third percent (33-1/3%) of the aggregate unpaid principal amount of Trust Certificates have notified the Trustee in writing that they have determined in their sole discretion that this paragraph shall no longer continue in effect."

Except as hereinabove specifically set forth, the Equipment Trust Agreement shall remain in full force and effect as when executed.


The provisions of this Amendment No. 1, and all rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

CITIBANK, N.A.

Attest:


Trust Officer

By

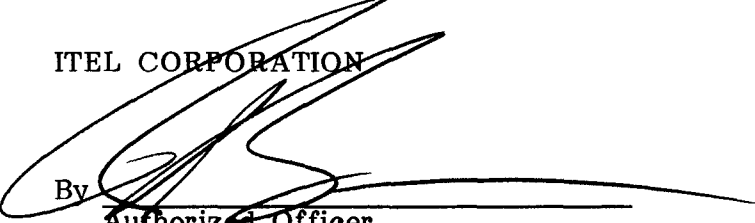

Senior Trust Officer

Attest:


Authorized Officer

ITEL CORPORATION

By

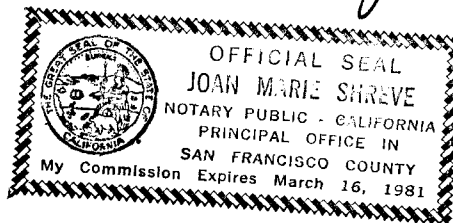

Authorized Officer

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO,)
) SS:

On this 17th day of June, 1980, before me personally appeared Richard A. Bachmann to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of ITEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joan Marie Shreve
Notary Public

My Commission expires



STATE OF NEW YORK)
)
COUNTY OF NEW YORK,)
) SS:

On this 20th day of June, 1980, before me personally appeared J. BYRNES, to me personally known, who, being by me duly sworn, says that he is a Senior Trust Officer of CITIBANK, N.A., a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Patricia C. Tampil
Notary Public **PATRICIA C. TAMPOL**
Notary Public, State of New York
No. 01TA4659889
Qualified in Kings County
Cert. filed in New York County
Term Expires March 30, 1981

My Commission expires